

Order

Michigan Supreme Court
Lansing, Michigan

April 17, 2009

Marilyn Kelly,
Chief Justice

137024 & (17)

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 137024
COA: 285582
Allegan CC: 07-015202-FH

MICHAEL JAY EDING,
Defendant-Appellant.

By order of December 10, 2008, the prosecuting attorney was directed to answer the application for leave to appeal the June 17, 2008 order of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

KELLY, C.J. (*dissenting*).

I would vacate defendant's sentence and remand the case to the trial court for resentencing because OV 10 of the sentencing guidelines was misscored. Nothing in the record shows that defendant engaged in preoffense conduct aimed at victimizing another person, as MCL 777.40(3)(a) requires to support the score that the trial court gave for OV 10. Because the prosecutor appears to have conceded the scoring error, defendant is entitled to resentencing. *People v Francisco*, 474 Mich 82 (2006).



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 17, 2009

Corbin R. Davis

Clerk